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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

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ART UNIT

PAPER NUMBER

TM02/0329  
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2161

DATE MAILED:

03/29/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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<b>Office Action Summary</b>	Application No. <b>09/457,466</b>	Applicant(s) <b>Brad Handler</b>
	Examiner <b>Tongoc Tran</b>	Group Art Unit <b>2161</b>

Responsive to communication(s) filed on Jan 2, 2001

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claim

Claim(s) 1-6 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-6 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

**-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --**

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## **DETAILED ACTION**

1. This Office Action is in response to Applicant's amendment filed on ½/2001. Claims 1-6 are pending for examination.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al. (U.S. Patent No. 5,835,896) in view of Cooper ("Going going gone! Tradition gives way to technology", British Telecom World, March 1990).

Regarding to **claim 1**, Cooper discloses a method comprising:

accepting a bid from an online bidder in the online environment to reflecting the online bidder's maximum proxy price (see col. 9, lines 18-24);

bidding on behalf of the remote bidder against one or more live bidders that are participating in the live, in-person auction (see page 1, paragraph 9-10).

Fisher does not discloses but Cooper discloses the following:

updating a current bid associated with an item in a telecommunication environment to reflect a current bid associated with the item in a live, in-person auction (see page 1, paragraph 9-

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10, updating a current bid is inherent in order for the remote bidder to compete with bidder of live auction);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cooper's interactive television auction system with Fisher's online to compete with bidder in live auction for broadening audience and cost saving.

Furthermore, Fisher discloses bidding on behalf of the online bidder (see col. 9-10), but does not discloses said bids are bided against participant in the live, in-person auction based upon the maximum proxy price.

However, Cooper discloses bidders from remote bid against participant in a live auction (see page 1, paragraph 9-10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fisher's online bidding with Cooper's television interactive auctioning system for the benefit of broadening audience and cost saving.

Regarding to **claim 2**, Fisher in view of Cooper discloses the method of claim 1. Fisher further discloses said bidding on behalf of the online bidder comprises bidding an amount that exceeds the current bid so long as the maximum proxy price has not been exceeded and so long as the current bid is not that of the online bidder (see col. 9, lines 18-24).

Regarding to **claim 3**, Fisher in view of Cooper discloses the method of claim 1, further comprising:

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establishing a starting bid for the item by performing a auction bidding process in the online environment for a predetermined amount of time (see col. 7, lines 8-23).

Fisher does not explicitly discloses said bidding a pre-auction for prior to the live, in-person auction; and communicating the starting bid for the item to the live, in person auction.

However, Cooper discloses communicating the starting bid for the item to the live, in person auction.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Fisher's online bidding auction with a pre-auctioning process prior to Cooper's live in person auctioning system in order to establish the online bidding in the relative pace with the in person live auction.

Regarding to claims 4-6, Fisher discloses a method, a computer system and a machine-readable comprising:

accepting a bid from an online bidder in the online environment to reflecting the online bidder's maximum proxy price (see col. 9, lines 18-24);

bidding on behalf of the remote bidder against one or more live bidders that are participating in the live, in-person auction (see page 1, paragraph 9-10).

Fisher does not discloses but Cooper discloses the following:

during the live auction portion of the auction updating a current bid associated with an item in a telecommunication environment to reflect a current bid associated with the item in a live,

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in-person auction (see page 1, paragraph 9-10, updating a current bid is inherent in order for the remote bidder to compete with bidder of live auction);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cooper's interactive television auction system with Fisher's online to compete with bidder in live auction for broadening audience and cost saving.

Furthermore, Fisher discloses bidding on behalf of the online bidder until the maximum proxy price has been met (see col. 9-10), but does not discloses said bids are bided against participant in the live, in-person auction based upon the maximum proxy price.

However, Cooper discloses bidders from remote bid against participant in a live auction (see page 1, paragraph 9-10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fisher's online bidding until maximum proxy price is met with Cooper's television interactive auctioning system for the benefit of broadening audience and cost saving.

Fisher discloses establishing a starting bid for the item by performing a auction bidding process in the online environment for a predetermined amount of time (see col. 7, lines 8-23) but does not explicitly discloses said bidding is a pre-auction for prior to the live, in-person auction; and communicating the starting bid for the item to the live, in person auction.

However, Cooper discloses communicating the starting bid for the item to the live, in person auction.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Fisher's online bidding auction with a pre-auctioning process prior to Cooper's live in person auctioning system in order to establish the online bidding in the relative pace with the in person live auction.

A storage device and a processor coupled to the storage device is inherently required in order for Cooper's telecommunication system with live auctioning system.

***Conclusion***

4. Claims 1-6 are rejected.
5. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 305-9051, (for formal communications intended for entry)

**Or:**

(703) 305-0040, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021  
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

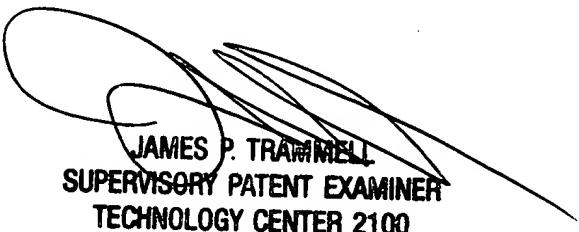
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tongoc Tran, whose telephone number is (703) 305-8967 and whose e-mail address is Tongoc.Tran@uspto.gov. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached at (703) 305-9768. The fax phone number for this Art Unit is (703) 305-0040.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

TT  
23Mar01



JAMES P. TRAMMELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100